

JACOB TOWNLEY HERNANDEZ,)
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Petitioner,)
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vs.)
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R. T. C. GROUNDS, Warden,)
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Respondent.)
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No. C 14-1605 JSW (PR)

**ORDER LIFTING STAY; DIRECTING
RESPONDENT TO SERVE EXHIBITS
ON PETITIONER; GRANTING LEAVE
TO FILE SECOND AMENDED
PETITION; TO SHOW CAUSE;
ADMINISTRATIVELY REOPENING
CASE**

(Dkt. 20)

Petitioner moved for a stay of proceedings to allow him to exhaust an additional claim that appellate counsel was ineffective. The motion was granted and Petitioner was ordered to file an amended petition once the additional claim was exhausted. Petitioner has filed such an amended petition, as well as a motion directing Respondent to serve him copies of Exhibits MM and OO, which, along with other exhibits, were lodged with the Court but not served upon Petitioner.

1. The stay is LIFTED. The Clerk shall administratively reopen the file.


2. The motion for service of exhibits MM and OO upon Petitioner is GRANTED. Withing **seven days** of the date this order is filed, Respondent shall file a proof of such service with the Court.

3. After receiving the exhibits, Petitioner may, if he chooses, file a second amended petition clarifying how the unavailability of such exhibits to him in the state courts was prejudicial. The second amended petition **must** be filed within **sixty-three** days of the date this order is filed, **must** include the case number and the words "SECOND AMENDED PETITION" on the front page, and **must** number each and every claim he raises. The second amended petition supercedes the original and first amended petitions and may not incorporate anything from the prior petitions by reference, such that any claim not included in the second amended petition will be deemed waived and will not be considered. Therefore, the second amended petition should include all of the claims from the prior petitions that Petitioner still wishes to pursue.

4. Within **ninety-one (91)** days of the date this order is filed, Respondent shall file an amended answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted based upon the claims set forth in the second amended petition, if one is filed, or the first amended petition (dkt. 21) if no second amended petition is filed. The answer and supporting memorandum previously filed in response to the original petition is STRICKEN because the original petition has been superceded by the first amended petition. If Petitioner wishes to respond to the amended answer, he shall do so by filing a traverse with the Court and serving it on Respondent within **twenty-eight (28)** days of the date the amended answer is filed.

IT IS SO ORDERED.

DATED: July 30, 2015


JEFFREY S. WHITE
United States District Judge